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Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE**

STATE OF WASHINGTON,

Plaintiff,

v.

PHIL ROSENFELT, in his official
capacity as the United States Acting
Secretary of Education¹, et al.,

Defendants.

Case No. 2:20-cv-00182-TOR

**STIPULATED REQUEST TO HOLD
PROCEEDINGS IN ABEYANCE**

¹ Pursuant to Fed. R. Civ. P. 25(d), Phil Rosenfelt is automatically substituted as a defendant in this action.

Pursuant to Civil Local Rule 7, the Parties submit this stipulation to request that the Court hold proceedings in this action in abeyance and stay for 60 days the briefing schedule previously approved by the Court in its Order of December 18, 2020. ECF 75. In support of this request, the Parties stipulate and agree as follows:

1. Plaintiff brought this action challenging a set of guidelines Defendants' announced regarding student eligibility for Higher Education Emergency Relief Fund disbursements under the CARES Act. ECF No. 1. The guidelines Plaintiff challenged were ultimately codified as a set of legal requirements in an Interim Final Rule (IFR) that was finalized on June 11, 2020, and published in the *Federal Register* on June 17, 2020. The IFR solicited public comments, and set a deadline of July 17, 2020 for such comments to be submitted.

2. On June 12, 2020, this Court issued a preliminary injunction against the application of the eligibility requirements codified in the IFR with respect to Plaintiff. ECF 31. That preliminary injunction remains in effect today.

3. The Parties subsequently negotiated a schedule for briefing summary judgment in this matter, and the parties subsequently filed their opening briefs. As amended, the schedule for the remaining portion of briefing is currently as follows:

- **February 19, 2021:** Plaintiff's Combined Reply and Opposition to Defendants' Motion for Summary Judgment.
- **March 12, 2021:** Defendants' Reply in support of its Motion for Summary Judgment.
- **March 17, 2021:** the case is submitted to the Court without oral argument. ECF 75.

4. On January 20, 2021, new leadership assumed responsibility for the United States Department of Education. The new leadership intends to consider the public comments submitted in response to the IFR and anticipates publishing a final rule or taking other action to address the issues raised in those comments. In light of these developments, counsel for Defendants conferred with counsel for Plaintiff, and the Parties have agreed and jointly request

that, in order to afford the newly-installed officials time to become familiar with the issues in this case and complete their consideration of further action, proceedings in this case be held in abeyance for sixty days.² The Parties further agree and propose that, at the end of this sixty-day period, the Parties will file a joint status report apprising the Court of the status of the Department's consideration and whether the Parties wish to proceed with briefing cross-motions for summary judgment, including, if applicable, a revised briefing schedule.

5. The Parties thus respectfully request that the Court enter an order (1) holding proceedings in this action in abeyance for sixty days; and (2) ordering the parties to file a joint status report no later than sixty days from the date of the Court's order, apprising the Court of the status of the Department's consideration and whether the Parties wish to proceed with briefing cross-motions for summary judgment, including, if applicable, a revised briefing schedule.

DATED: February 18, 2021

Respectfully submitted,

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² Two other cases pending in the District of Massachusetts, also challenging the IFR, have already been held in abeyance for sixty days. *See Noerand v. Rosenfelt*, No. 1:20-cv-11271 (D. Mass.); *Massachusetts v. Rosenfelt*, No. 1:20-cv-11600 (D. Mass.). The same is true for a case challenging the IFR in the Northern District of California, *Oakley, et al. v. Rosenfelt*, No. 4:20-cv-3215 (N.D. Cal.).

1 /s/ R. July Simpson

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of February, 2021, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing.

/s/ Alexander V. Sverdlov
ALEXANDER V. SVERDLOV